

ASSEMBLY BILL

No. 1112

Introduced by Assembly Member Huffman

February 18, 2011

An act to amend Sections 8670.40 and 8670.41 of, to amend and repeal Section 8670.32 of, and to add Section 8670.32.5 to, the Government Code, and to add and repeal Section 6226 of the Public Resources Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

AB 1112, as introduced, Huffman. Oil spill prevention and administration fee: State Lands Commission.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. The act requires the administrator to periodically carry out announced and unannounced drills to test response and cleanup operations, equipment, contingency plans, and procedures.

This bill would require the administrator to develop a screening mechanism and conduct a risk assessment of vessels engaged in bunkering and lightering operations and determine the highest risk transfers. The bill also would specify requirements regarding monitoring and inspections of oil transfer operations.

(2) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to implement oil spill prevention activities, but not to exceed \$0.05 per barrel of crude oil or

petroleum products, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill would revise that fee to an amount not to exceed \$0.08 per barrel of crude oil or petroleum products. The bill would also authorize the administrator to adjust the maximum fee annually for inflation, as measured by the California Consumer Price Index.

(3) Existing law requires the administrator to charge a nontank vessel owner or operator a reasonable fee, to be collected with each application to obtain a certificate of financial responsibility, in an amount that is based upon the administrator's costs in implementing certain provisions relating to nontank vessels. Revenue from the fee is deposited into the Oil Spill Prevention and Administration Fund for appropriation by the Legislature for specified purposes.

This bill would establish that fee at \$3,000 per nontank vessel for the administrator's costs in implementing those provisions relating to nontank vessels.

(4) Existing law requires the Department of Fish and Game to contract with the Department of Finance to prepare and submit to the Governor and the Legislature, on or before January 1, 2005, a detailed report on the financial basis and programmatic effectiveness of the state's oil spill prevention, response, and preparedness program.

This bill would require the Department of Fish and Game and the State Lands Commission, independently, to contract with the Department of Finance to prepare and submit that report to the Governor and the Legislature, on or before January 1, 2013, and no less than once every 4 years thereafter. This provision would be repealed on January 1, 2017.

(5) Under existing law, the State Lands Commission has jurisdiction over state lands and ungranted tidelands and submerged lands owned by the state.

This bill would require the State Lands Commission, on or before March 1, 2012, to report to the Legislature on regulatory action, pending or already taken, and statutory recommendations for the Legislature to ensure maximum safety and prevention of harm during offshore oil drilling. This provision would be repealed on January 1, 2016.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 8670.32 is added to the Government Code, to read:

8670.32. (a) The administrator shall develop a screening mechanism and conduct a risk assessment of vessels engaged in bunkering and lightering operations and determine the highest risk transfers.

(b) The administrator shall increase by 2 percent annually the monitoring and inspection of vessel oil transfer operations, until a minimum of 10 percent of all oil transfer operations are being routinely monitored and inspected. The monitoring and inspections shall be conducted to ensure that a vessel has the appropriate equipment in the event of an oil spill.

(c) A minimum of 50 percent of oil transfer operations subject to monitoring and inspections shall be conducted at fuel transfer operations occurring at anchorage.

SEC. 2. Section 8670.40 of the Government Code is amended to read:

8670.40. (a) The State Board of Equalization shall collect a fee in an amount determined by the administrator to be sufficient to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. The annual assessment ~~may~~ *shall not exceed five eight cents (\$0.05) (\$0.08) per barrel of crude oil or petroleum products. The administrator may adjust the maximum fee annually for inflation, as measured by the California Consumer Price Index.*

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that *the* crude oil is received at a marine terminal from within or outside the state, and upon a person ~~who owns~~ *owning* petroleum products at the time that those petroleum products are received at a marine terminal from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, an operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating

1 across, under, or through the marine waters of the state. The fees
2 shall be remitted to the board by the terminal or pipeline operator
3 on the 25th day of the month based upon the number of barrels of
4 crude oil or petroleum products received at a marine terminal or
5 transported by pipeline during the preceding month. A fee shall
6 not be imposed pursuant to this section with respect to crude oil
7 or petroleum products if the person who would be liable for that
8 fee, or responsible for its collection, establishes that the fee has
9 been collected by a terminal operator registered under this chapter
10 or paid to the board with respect to the crude oil or petroleum
11 ~~product~~ products.

12 (2) An owner of crude oil or petroleum products is liable for
13 the fee until it has been paid to the board, except that payment to
14 a marine terminal operator registered under this chapter is sufficient
15 to relieve the owner from further liability for the fee.

16 (3) On or before January 20, the administrator shall annually
17 prepare a plan that projects revenues and expenses over three fiscal
18 years, including the current year. Based on the plan, the
19 administrator shall set the fee so that projected revenues, including
20 ~~any~~ interest, are equivalent to expenses as reflected in the current
21 Budget Act and in the proposed budget submitted by the Governor.
22 In setting the fee, the administrator may allow for a surplus if the
23 administrator finds that revenues will be exhausted during the
24 period covered by the plan or that the surplus is necessary to cover
25 possible contingencies. *The administrator shall notify the board*
26 *of the adjusted fee rate, which shall be rounded to no more than*
27 *four decimal places, to be effective the first day of the month*
28 *beginning not less than 30 days from the date of the notification.*

29 (c) The moneys collected pursuant to subdivision (a) shall be
30 deposited into the fund.

31 (d) The board shall collect the fee and adopt regulations for
32 implementing the fee collection program.

33 (e) The fee described in this section shall be collected solely
34 for all of the following purposes:

35 (1) To implement oil spill prevention programs through rules,
36 regulations, leasing policies, guidelines, and inspections and to
37 implement research into prevention and control technology.

38 (2) To carry out studies that may lead to improved oil spill
39 prevention and response.

1 (3) To finance environmental and economic studies relating to
2 the effects of oil spills.

3 (4) To reimburse the member agencies of the State Interagency
4 Oil Spill Committee for costs arising from implementation of this
5 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter
6 7 of this code, and Division 7.8 (commencing with Section 8750)
7 of the Public Resources Code.

8 (5) To implement, install, and maintain emergency programs,
9 equipment, and facilities to respond to, contain, and clean up oil
10 spills and to ensure that those operations will be carried out as
11 intended.

12 (6) To respond to an imminent threat of a spill in accordance
13 with the provisions of Section 8670.62 pertaining to threatened
14 discharges. The cumulative amount of an expenditure for this
15 purpose shall not exceed the amount of one hundred thousand
16 dollars (\$100,000) in a fiscal year unless the administrator receives
17 the approval of the Director of Finance and notification is given
18 to the Joint Legislative Budget Committee. Commencing with the
19 1993–94 fiscal year, and each fiscal year thereafter, it is the intent
20 of the Legislature that the annual Budget Act contain an
21 appropriation of one hundred thousand dollars (\$100,000) from
22 the fund for the purpose of allowing the administrator to respond
23 to threatened oil spills.

24 (7) To reimburse the board for costs incurred to implement this
25 chapter and to carry out Part 24 (commencing with Section 46001)
26 of Division 2 of the Revenue and Taxation Code.

27 (8) To reimburse the costs incurred by the State Lands
28 Commission in implementing the *former* Oil Transfer and
29 Transportation Emission and Risk Reduction Act of 2002 (Division
30 7.9 (commencing with Section 8780) of the Public Resources
31 Code).

32 (9) To cover costs incurred by the Oiled Wildlife Care Network
33 established by Section 8670.37.5 for training and field collection,
34 and search and rescue activities, pursuant to subdivision (g) of
35 Section 8670.37.5.

36 (f) The moneys deposited in the fund shall not be used for
37 responding to an oil spill.

38 SEC. 3. Section 8670.41 of the Government Code is amended
39 to read:

1 8670.41. (a) The administrator shall charge a nontank vessel
2 owner or operator a ~~reasonable~~ fee, to be collected with each
3 application to obtain a certificate of financial responsibility, in ~~an~~
4 ~~the amount that is based upon of three thousand dollars (\$3,000)~~
5 ~~per nontank vessel for the administrator's costs in implementing~~
6 ~~this chapter relating to nontank vessels. Before January 1, 2005,~~
7 ~~the fee shall be two thousand five hundred dollars (\$2,500), or less~~
8 ~~per vessel.~~

9 (b) ~~The~~ *Notwithstanding subdivision (a), the* administrator may
10 charge a reduced fee under this section for nontank vessels
11 determined by the administrator to pose a reduced risk of pollution,
12 including, but not limited to, vessels used for research or training
13 and vessels that are moored permanently or rarely move.

14 (c) The administrator shall deposit all revenue derived from the
15 fees imposed under this section in the Oil Spill Prevention and
16 Administration Fund established in the State Treasury under
17 Section 8670.38.

18 (d) Revenue derived from the fees imposed under this section
19 ~~may~~ *shall* be spent for the purposes listed in subdivision (e) of
20 Section 8670.40, and ~~may~~ *shall* not be used for responding to an
21 oil spill.

22 SEC. 4. Section 8670.42 of the Government Code is amended
23 to read:

24 8670.42. (a) The Department of Fish and Game ~~and the State~~
25 ~~Law Commission, independently,~~ shall contract with the
26 Department of Finance for the preparation of a detailed report that
27 shall be submitted on or before ~~January 1, 2005, January 1, 2013,~~
28 ~~and no less than once every four years thereafter,~~ to the Governor
29 and the Legislature on the financial basis and programmatic
30 effectiveness of the state's oil spill prevention, response, and
31 preparedness program. This report shall include an analysis of all
32 of the oil spill prevention, response, and preparedness program's
33 major expenditures, fees and fines collected, staffing and equipment
34 levels, spills responded to, and other relevant issues. The report
35 shall recommend measures to improve the efficiency and
36 effectiveness of the state's oil spill prevention, response, and
37 preparedness program, including, but not limited to, measures to
38 modify existing contingency plan requirements, to improve
39 protection of sensitive shoreline sites, and to ensure adequate and

1 equitable funding for the state's oil spill prevention, response, and
2 preparedness program.

3 *(b) (1) A report to be submitted pursuant to subdivision (a)*
4 *shall be submitted in compliance with Section 9795.*

5 *(2) Pursuant to Section 10231.5, this section is repealed on*
6 *January 1, 2017.*

7 SEC. 5. Section 6226 is added to the Public Resources Code,
8 to read:

9 6226. (a) On or before March 1, 2012, the commission shall
10 report to the Legislature on regulatory action, pending or already
11 taken, and statutory recommendations for the Legislature to ensure
12 maximum safety and prevention of harm during offshore oil
13 drilling. The report shall include, but not be limited to, all of the
14 following:

15 (1) A comprehensive set of requirements for offshore oil drilling
16 rigs operating in state waters to have fully redundant and
17 functioning safety systems to prevent a failure of a blowout
18 preventer from causing a major oil spill.

19 (2) A complete description of a response plan to control a
20 blowout and manage the accompanying discharge of hydrocarbons,
21 including both of the following:

22 (A) The technology and timeline for regaining control of a well.

23 (B) The strategy, organization, and resources necessary to avoid
24 harm to the environment and human health from hydrocarbons.

25 (3) Requirements for the use of the best available and safest
26 technologies and practices, if the failure of equipment would have
27 a significant effect on safety, health, or the environment.

28 (b) (1) A report to be submitted pursuant to subdivision (a)
29 shall be submitted in compliance with Section 9795 of the
30 Government Code.

31 (2) Pursuant to Section 10231.5 of the Government Code, this
32 section is repealed on January 1, 2016.